

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICKEY RAY TAYLOR,

Plaintiff,

v.

No. 20-cv-536 KG-KBM

CITY OF CARLSBAD, *et al.*,

Defendants.

ORDER EXTENDING PAYMENT DEADLINE

This matter is before the Court on Plaintiff Mickey Ray Taylor's response (*Doc. 6*) to the Order Granting Leave to Proceed *In Forma Pauperis* (*Doc. 5*). In its Order, the Court set a deadline of August 31, 2020, to make an initial partial payment of \$6.52. *Doc. 5* at 2. The payment is required by statute, as Plaintiff filed a civil complaint while incarcerated. See 28 U.S.C. § 1915(b)(1). The amount represents "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint" *Id.* at 1.

In his response, Plaintiff states that his mother and fiancé depend on his financial contributions and have struggled to pay the bills, particularly since they had to purchase another vehicle. *Doc. 6* at 2. Plaintiff does not wish to spend a portion of his monthly income on this litigation, in light of these obligations. However, in enacting the *in forma pauperis* statute, Congress determined that prisoners must "bear some marginal cost for each legal activity" and "feel the deterrent effect created by liability for filing fees." *Cosby v. Meadors*, 351 F.3d 1324, 1327 (10th Cir. 2003) (quotations omitted). The Tenth Circuit

counsels that “[w]hen a prisoner has sufficient income to pay a monthly partial filing fee and instead spends his money on [other] amenities,” the Court cannot excuse “the failing to make the required partial payments.” *Id.*

In accordance with *Cosby*, the Court will extend the deadline to make an initial partial payment to September 28, 2020, rather than excusing it entirely. If Plaintiff fails to timely make the \$6.52 payment, the Court will dismiss this case without further notice.

IT IS ORDERED that the deadline for Plaintiff to make his initial partial payment of \$6.52 is extended through September 28, 2020.


UNITED STATES MAGISTRATE JUDGE